

FILED

NOT FOR PUBLICATION

FEB 14 2005

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANK TED JOHNSON,

Plaintiff - Appellant,

v.

TIMOTHY ARNDT, aka Timothy Manley; et
al.,

Defendants - Appellees.

No. 04-15282

D.C. No.
CV-01-01503-CLH/MS

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Charles L. Hardy, District Judge, Presiding

Submitted February 7, 2005**

Before: FERNANDEZ, GRABER, and GOULD, Circuit Judges.

Frank Ted Johnson, an Arizona state prisoner, appeals pro se the district court's summary judgment for defendants in his 42 U.S.C. § 1983 action alleging

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

that defendants used excessive force against him during his arrest on September 26, 1999. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Jackson v. City of Bremerton*, 268 F.3d 646, 650 (9th Cir. 2001), and we affirm.

The district court properly determined that the defendants were entitled to qualified immunity because the evidence, viewed in the light most favorable to Johnson, indicates that the force used by the officers in this case was reasonable, and defendants did not violate Johnson's constitutional rights. *See Saucier v. Katz*, 533 U.S. 194, 201-02 (2001).

The district court properly dismissed without prejudice Johnson's illegal seizure and wrongful arrest claims because success on these claims would necessarily imply the invalidity of Johnson's convictions, and he has not demonstrated that those convictions have been overturned. *See Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994).

The district court properly dismissed Johnson's claim that defendants provided false testimony during his criminal trial because police witnesses are immune from liability for their testimony in judicial proceedings. *See Paine v. City of Lompoc*, 265 F.3d 975, 981 (9th Cir. 2001).

Johnson's remaining contentions lack merit.

AFFIRMED.